

PROB. 12B
(7/93)

ORIGINAL
United States District Court

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

for the

DISTRICT OF HAWAII

MAY 22 2007
at ☒ o'clock and ☒ min. M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: MANUEL G. RINCON,
aka "Manny" and "Rico"

Case Number: CR 01-00183DAE-03

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 8/12/2002

Original Offense: Conspiracy to Possess With Intent to Distribute In Excess of One
Kilogram of Heroin, in violation of 21 U.S. C. § 846, a Class A
felony

Original Sentence: Seventy (70) months imprisonment to be followed by five (5)
years of supervised release with the following special conditions:
1) That the defendant shall participate in a substance abuse
program, which may include drug and alcohol testing, at the
discretion and direction of the Probation Office; 2) That the
defendant is prohibited from possessing any illegal or dangerous
weapons; 3) That the defendant provide the Probation Office
access to any requested financial information; and 4) That the
defendant shall submit his or her person, residence, place of
employment or vehicle to a search conducted by the U.S.
Probation Office at a reasonable time and in a reasonable manner,
based upon reasonable suspicion of contraband or evidence of a
violation of a condition of release. Failure to submit to a search
may be grounds for revocation. The defendant shall warn any
other resident that the premises may be subject to a search
pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/4/2006

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).

CAUSEViolation NumberNature of Noncompliance

1. Special Condition
No. 1

On 2/22/2007, the subject failed to provide a urine specimen.

The subject's term of supervised release commenced on 8/4/2006. The subject was referred to Drug Addiction Services of Hawaii, Hilo (DASH) for substance abuse counseling and testing. The subject has remained free of any positive drug tests. However, on 2/22/2007, the subject failed to appear for urine testing. Upon being questioned, the subject reported that he forgot to call the DASH recorder.

The subject has agreed to modify his conditions of supervised release to allow drug testing consistent with United States v. Stephens. The subject's extensive substance abuse history warrants the modification of this condition. The modified condition will enable our office to monitor the subject's future compliance once he completes substance abuse treatment.

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Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections.

Respectfully submitted by,



MARK T. NUGENT
U.S. Probation Officer

Approved by:

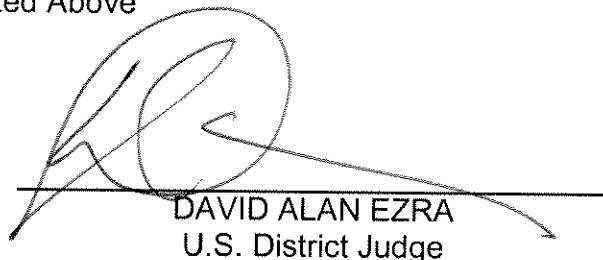


PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 5/2/2007

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



DAVID ALAN EZRA
U.S. District Judge

5-22-07

Date

05/01/2007 15:38 FAX

+ DASH HILO

002/002

PROB 49
(5/06)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- [] To extend the term of supervision for years, for a total term of years.
[X] To modify the conditions of supervision as follows:

- 5 That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).

Witness:



BRIAN HYATT

Drug Addiction Services of Hawaii Counselor

Signed:



MANUEL G. RINCON
Supervised Releasee

5/4/07

Date